

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Andrew J. Minor,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1125
Parcel No. 200/00316-002-000

On May 24, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Andrew J. Minor, requested his appeal be considered without hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorneys, Ralph E. Marasco, Jr. and David Hibbard, as its legal representatives. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Andrew Minor, owner of property located at 8654 NE 64th Street, Bondurant, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story dwelling having 2480 total square feet of living area, and a 1504 square-foot unfinished basement. The property is also improved by a large open porch and has 256 square feet of veneer. The parcel also has a 40 foot x 60 foot detached metal utility building. The improvements were built in 2001, and the dwelling has a 3+05 quality grade classification. The improvements are situated on a 5.360 acre site. The real estate was classified as

residential on the initial assessment of January 1, 2009, and valued at \$341,400, representing \$83,700 in land value and \$257,700 in improvement value.

Minor protested to the Board of Review on the ground the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a). He did not request a specific relief. The Board of Review denied the protest stating, "The assessed value of this property was not changed because it was equitable with that of similar property in the area."

Minor filed his appeal with this Board and urged the same ground. He also indicated in his statement of the claim and relief requested that he sought a reduction in the assessment to \$285,000 based on a recent appraisal.

Minor submitted an appraisal by Kyle Skinner, of Skinner Appraisal in Altoona, completed for refinancing with Community State Bank and dated May 22, 2009. The appraiser describes the neighborhood as an "area of residential acreages ranging from old farm homes to good quality new homes." He states these acreage properties are in high demand. Skinner reports that market conditions are very difficult, and in the past year there were many more properties listed than sold. He states there are not many foreclosure properties in the area, and in his opinion, the foreclosures do not have an impact on this market.

Skinner identified five comparable sales of two-story dwellings ranging from 2105 square feet to 2527 square feet, which included four properties sold in 2008 and a pending 2009 sale. Skinner reported that due to the limited sales three of the comparables were in a higher valued acreage development and the remaining sale (Sale # 3) was the most comparable. He indicated the subject property was modest and economically built, which made it inferior to two of the comparables. Skinner adjusted for quality of construction, gross living area, basement size and finish, garage, and exterior amenities such as decks and porches. Adjusted sale prices ranged from \$279,000 to \$287,500

or \$113.77 to \$132.54 per square foot. His indicated value for the subject property was \$285,000 by the sales approach and \$313,554 by the cost approach. His final conclusion of value was \$285,000.

Norman (Mike) Swaim of Swaim Appraisal Service, Inc. in West Des Moines completed an appraisal of the property for the Board of Review. He states Minor's neighborhood of Bondurant and surrounding rural areas is comprised of some farmland and small acreage properties. Swaim completed an interior inspection of the property on May 5, 2010, which is close to the assessment date. He reports drainage problems to the south of the house which allows some water to seep into the basement. The appraiser viewed photographs of the property last spring which showed extensive ponding on the site. He indicates although the basement has an egress window and semi-finished recreation room, it adds little contributory value due to the water and drainage issues. He reports there are two sump pumps. The appraisal indicates the subject property uses LP gas, and has its own septic system.

Swaim developed both the sales and cost approaches to valuation. He estimated an improvement value of \$264,100 using *Marshall Swift Residential Cost Handbook*. He analyzed recent site sales of small acreages in the area to obtain a land value of \$70,000 and a total indicated value of \$307,400.

Swaim reported very limited number of comparable sales during 2008 between \$265,000 and \$375,000 in eastern and northeastern Polk County. Swaim identified four comparable properties in the area with outbuildings similar to the subject property. He adjusted for story height, site size, age, gross living area, basement size and finish, walkout feature, garage style and size, and other amenities. Unadjusted sale prices per square foot ranged from \$114.47 to \$130.71. The subject property is assessed at \$137.66 per square foot. Adjusted sale prices ranged from \$282,200 to \$329,200. Swaim estimates a value of \$300,000 by the sales approach. His final opinion of value as of January 1, 2009, is \$300,000.

Reviewing all the evidence, we find that substantial evidence supports Minor's contention his property is inequitably assessed. While we considered both appraisals to be credible, we give more weight to the Swaim appraisal which was completed for this assessment protest because it used all small rural acreages with outbuildings, as opposed to Skinner's use of higher-valued properties in acreage developments, and it reflects fair market value on the January 1, 2009, assessment date.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

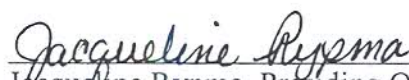
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value.

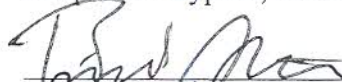
§ 441.21(1). We find the Swaim opinion of value supports the claim that the property is inequitably assessed. Further, we rely on his appraisal as the most credible evidence of the subject property's fair market value as of the assessment date.


Viewing the evidence as a whole, we determine that substantial evidence supports Minor's claim of inequitable assessment as of January 1, 2009. We, therefore, modify the Minor property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$300,000, representing \$83,700 in land value and \$216,300 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is modified to \$300,000, representing \$83,700 in land value and \$216,300 in improvement value.

Dated this 9 day of June 2010.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-4</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Handwritten Signature]</i></u>